

*Canadian Human Rights*

political affiliations or their political beliefs are discriminated against in their employment. I will not go into examples, but legions of people cannot get employment because of views they may have held. This infamous black list which has been dealt with in this House from time to time is an excellent example of people who, because of political views not necessarily held at this time but at one time, find themselves discriminated against in Canadian society.

**Mr. Hnatyshyn:** They were never changed.

**Mr. Leggatt:** They were never charged, never accused nor convicted. It is the government which stands convicted in terms of that type of conduct. I thought this bill would have gone in some direction to solving that problem. The problem with the legislation is that the minister has not been forthcoming enough. He has not taken on the unpopular causes which are necessary for a valid piece of human rights legislation.

There were some changes in the bill at committee stage. I think they were positive changes. That is the reason there were not many amendments at report stage. The minister and the committee went along with increasing the penalty which I proposed at committee stage. I am referring to a very important section of the bill which would have hived off the whole question of employment discrimination to the Department of Labour and gutted the capacity of the new human rights commission to develop any jurisprudence around its operations. Our party was successful in having an amendment to that section passed at committee stage. It is to the committee's credit that they took a fairly objective look at the details of the bill.

The minister should look at an amendment which was not successful. I refer to clause 14, which deals in the negative. It reads:

It is not discriminatory practice if (a) any refusal, exclusion, expulsion, suspension, limitation, specification or preference in relation to any employment is established by an employer to be based on a bona fide occupational requirement—

In committee we attempted to have the onus as to what is bona fide placed upon the employer, since it is the employer who has to make that kind of decision. It is the employer, for example, who has been paying reduced rates to women over the years in order to maximize his operation, his profit, and hurt a very large section of the Canadian community.

The minister has been unwilling to change that fundamental question of dealing with the onus and dealing with whose responsibility it is to get from under that kind of exemption. The exemption should never have dealt with it in a negative way. It should have been the other around. As the hon. member for Vancouver-Kingsway (Mrs. Holt) pointed out, this is a handle to give the employer a chance to discriminate. All he has to do, basically is say that there is a bona fide occupational requirement that a lumber worker, for example, has to be male. Thus, he beats the meaning of the human rights legislation. The onus should be clearly, forcefully, and fully placed upon the employer to prove that it is bona fide in a court of law or the human rights commission.

[Mr. Leggatt.]

**Some hon. Members:** Hear, hear!

**Mr. Basford:** Mr. Speaker, I rise on a point of order. I do not want to get involved in a dispute in any way, but in fairness the hon. member should point out that we did make an amendment to that section in committee, which provides that those exclusions have to be established by the employer to be bona fide. It is the government's view that that places the onus on the employer. That is a matter of dispute between the hon. member and myself, but there is no doubt as to the intention and the belief of the government.

**Mr. Leggatt:** It would have been easier to understand the minister's position on this clause if he had accepted clear words which would have placed the onus on the employer, instead of weaselling around with the clause and continuing to engage in what is a legal dispute between the two of us. The clause we proposed was perfectly clear; the onus was set and the employer had a legal responsibility to satisfy that onus. We can get into the legal question of whether the word "establishes" in fact means "onus". The minister could have been forthcoming on this clause making it very clear that employers were not going to be able to weasel around clause 14 and hide behind the question of bona fide, in the practice of employment.

The bill goes some distance in providing protection to some groups. I wish we could say "all groups" and I wish we could say that the minister had the courage to protect the unpopular under this legislation. I must say that neither he nor his government has had that courage. There are times in this House when playing politics with a bill as important as this one is wrong. Our party will support it because it does go some distance in protecting people who are discriminated against as a result of their employment. But we should have seen a little more forthrightness by the minister in the bill.

**Mr. Leonard C. Jones (Moncton):** Mr. Speaker, I really did not intend to speak on this bill.

**Mr. Deputy Speaker:** Order, please. I am sorry that I allowed the hon. member to take the floor, but I have to call it one o'clock at this time. I will now leave the chair until two o'clock. The hon. member may continue his remarks after routine proceedings this afternoon.

At one o'clock the House took recess.

**AFTER RECESS**

The House resumed at 2 p.m.